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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CM(M) 4189/2024**

AMULYA KUMAR MISHRA AND ANR.Petitioners

Through: Mr. Samrat Nigam, Senior
Advocate with Mr. Abhay Anand
Jena & Ms. Arpita Rawat,
Advocates. [M:-9319148302]

versus

RAJESH MALIK AND ORS.Respondents

Through: Mr. Aditya Parolia, Mr. Akshay
Srivastava, Ms. Sumbul Ismail,
Mr. Alankrit Bhatnagar, Mr.
Siddharth Karnawat & Mr. Pranjal
Mishra, Advocates for R-1 & 2.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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23.12.2024

CM APPL. 75860/2024 (for exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

CM(M) 4189/2024 & CM APPL. 75859/2024

1. This petition, under Article 227 of the Constitution, is directed against orders dated 23.10.2024, 14.11.2024, 06.12.2024 and 13.12.2024 passed by National Consumer Disputes Redressal Commission ["NCDRC"] in Execution Application No. 493/2023. The said execution application has been filed by respondent Nos. 1 and 2 seeking execution of the judgment dated 31.03.2023 in Consumer Complaint No. 751/2020.



2. By the judgment dated 31.03.2023, the complaint filed by respondent Nos. 1 and 2 was partly allowed against the respondent therein, M/s Angle Infrastructure Pvt. Ltd. [“Angle”], to the extent that Angle was directed to refund the amount of ₹1,13,68,750/- paid by the respondent Nos. 1 and 2, alongwith delay compensation at the rate of 9% per annum within the period of two months, failing which interest was to be calculated at the rate of 12% per annum, as well as costs.

3. The petitioners are directors of Angle, and have been arrayed in the execution proceedings as respondents, in their own name.

4. Mr. Samrat Nigam, learned Senior Counsel for the petitioner, in the course of argument, submits that the petitioners have been present before NCDRC in person on the last two dates of hearing i.e. 06.12.2024 and 13.12.2024. Although their presence was “*not taken note of*” for the reasons stated in the order dated 06.12.2024, it is undisputed that both were in fact physically present on both dates of hearing.

5. The grievance of the petitioners is that, despite their personal presence, by order dated 13.12.2024, non-bailable warrants have been issued against them for their appearance on 06.01.2025. Mr. Nigam submits that this order is also contrary to an order of the Supreme Court dated 16.07.2024 in SLP(C) 13481-13482/2024, by which the petitioners herein and other directors of Angle contested their impleadment in the execution proceedings in their individual capacity. The Supreme Court directed that the objections taken by the appellants in the reply to the execution application must be adjudicated by NCDRC before any further coercive steps are taken against them, unless they elect to stay away from the execution proceedings, or they/their counsel remain absent before



NCDRC. According to Mr. Nigam, the application filed by the present petitioners remains pending, and issuance of non-bailable warrants against them is also in the teeth of this order.

6. As far as first aspect is concerned, Mr. Aditya Parolia, learned counsel for the respondent Nos. 1 and 2, submits that subject to the petitioners undertaking to appear in person before NCDRC on 06.01.2025, the execution of the non-bailable warrants may be dispensed with. Mr. Nigam submits, upon instructions, that the petitioners are willing to make such an undertaking before this Court.

7. In view of the above, with the consent of learned counsel for the parties, the directions in the impugned order dated 13.12.2024 with regard to issuance of non-bailable warrants against the petitioners is kept in abeyance, subject to the petitioners furnishing appropriate undertakings before this Court that they will be present in person before NCDRC on 06.01.2025. Affidavits of undertaking to this effect be filed by tomorrow i.e. 24.12.2024.

8. As far as the second aspect is concerned, i.e., with regard to the effect of the order of the Supreme Court, I am of the view that these contentions can be raised before NCDRC, and it is unnecessary for this Court to enter into this controversy under Article 227 of the Constitution.

9. Mr. Parolia submits that the contents of the present petition, to the extent that the petitioners have expressed their willingness to make payment of the amounts due under the judgment of NCDRC dated 31.03.2024, be taken on record. For the same reasons as stated above, I am of the view that this is not a matter for Article 227 proceedings, but for the parties to raise and agitate before NCDRC. They are at liberty to



do so.

10. The petition is disposed of with the aforesaid directions.

PRATEEK JALAN, J

DECEMBER 23, 2024

'pv/AD'/'